

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
NOV 14 2005
[Signature]
CLERK

MICHAEL S. BROOME,

Plaintiff,

vs.

SOUTH DAKOTA STATE PENITENTIARY;
MR. PEED, Correctional Officer;
MR. LYNNWEBBER, Special Security;
J. LARSON, C. Officer;
MRS. RAMKAMA, Springfield Counselor;
C.O. TJEERDMAN;
J. BRUESELIER, Captain; and
SPRINGFIELD PENITENTIARY,

Defendants.

CIV. 05-4069

**SUPPLEMENTAL
REPORT AND RECOMMENDATION**

Plaintiff's Amended Complaint has been screened pursuant to 28 U.S.C. § 1915. In his Amended Complaint document, Plaintiff accedes to the dismissal of Defendants South Dakota State Penitentiary, Springfield State Penitentiary, Special Security Lynnwebber, and Mrs. Ramkama, for the reasons contained in the Report and Recommendation dated June 30, 2005. Further, Plaintiff has amended his complaint to seek \$1 million in compensatory damages for his excessive force claim under the Eighth Amendment.

Plaintiff's Amended Complaint survives re-screening and should be served on Defendants Brueselier, Peed, Larson and Tjeerdman. An Order for Service has been entered.

RECOMMENDATION

It is **RECOMMENDED** that Defendants South Dakota State Penitentiary, Springfield State Penitentiary, Special Security Lynnwebber, and Mrs. Ramkama should be dismissed as parties to this lawsuit pursuant to Rule of Civil Procedure 41 and for the reasons contained in the Report and Recommendation dated June 30, 2005.

It is **RECOMMENDED** that the complaint against Defendants Lynnwebber, the South Dakota State Penitentiary and the Springfield State Penitentiary should be dismissed with prejudice. The Complaint against Defendant Ramkama should be dismissed without prejudice. Finally, it is **RECOMMENDED** that the Defendants Lynnwebber, the South Dakota State Penitentiary, the Springfield State Penitentiary and Mrs. Ramkama should be eliminated from the caption of the Amended Complaint.

NOTICE TO PARTIES

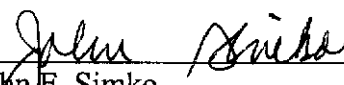
The parties have ten (10) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court.

Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990)

Nash v. Black, 781 F.2d 665 (8th Cir. 1986).

Dated this 14th day of November, 2005.


BY THE COURT:



John E. Simko
United States Magistrate Judge

ATTEST:

JOSEPH HAAS, CLERK

By:  Deputy
(SEAL)